

**REMARKS**

In the above-referenced Office action the examiner stated, "Claim 1 recites the limitation "the groove of the tool" in line 27. There is insufficient antecedent basis for this limitation in the claim as the tool is not actively claimed.

Claim 1 recites the limitation "the loading/unloading position" in page 13, line 28. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the fixed position" in page 13, line 35. There is insufficient antecedent basis for this limitation in the claim."

As amended Claim 1 is believed to have antecedent basis for each of the terms used therein.

Next, the Examiner rejected Claims 1, 2, 4, 5 under 35 U.S.C. 102(b) as being anticipated by Nagy (4,752,063), stating, "With respect to claim 1: Nagy discloses: A system for fixing a bending tool, said tool comprising two parallel surfaces for fixing by clamping and a retaining groove, said system comprising:

a clamping body (12, 12', 12") having a first clamping surface able to collaborate with one of the fixing surfaces of the tool; a tool clamp (7, 7') mounted so that it can pivot and comprising a second clamping surface, said clamp being able to adopt a first tool-clamping position in which the fixing surfaces of the tool are clamped between the first and second clamping surfaces and a second position for mounting/demounting the tool, in which position its clamping surface is separated from the first camping surface of the body; and a tool retaining member (FIG. 2) comprising a number of mutually parallel elastically deformable blades (14, Col. 5, lines 39 - 42) arranged in the same plane, each blade (Col. 7, Lines 32 - 39)comprising a first end secured to the clamping body (12,12', 12"), a running part arranged in such a way that, at rest, it is pressed against the first fixing face of the tool and a second end comprising at least a first angled part angled toward the tool with respect to the running part and a second angled part angled in the opposite direction so that said angled parts, when said blade is at rest, are held elastically in the groove of the tool and so that when the clamp is in the loading/unloading position, the running part of the blade can deform elastically to allow said angled parts of the elastically deformable blades to be introduced into or extracted from said groove (See FIGS. 1 - 3).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

The " ... at rest..." (Claim 1, Lines 21 & 26) clauses are essentially method limitations or statements or intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647. See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danl, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

With respect to Claims 2 & 4:

These are method limitations within the other rejection claims.

The apparatus as disclosed by Nagy is capable to meet those method limitations.

With respect to claim 5:

Nagy further discloses: in which said retaining member (Fig. 2) consists of an elastically deformable sheet in which said blades (14) are separated from one another by parallel slots (see Figs. 2 & 4)."

Applicant believes the newly added claim 11 obviates this rejection for the following reasons. The Nagy reference relates to a vise having two opposite jaws 7 and 7'. The two jaws are relatively movable in a linear translation. The surface of each jaw is defined by a plurality of movable blades 14. Consequently, the surfaces of the jaws can be automatically adapted to the shape of the piece to be fixed (see column 1, lines 5-15).

On the other hand, new independent Claim 11 recites that the tool clamp is pivotable and that the tool retaining member is distinct from the clamping body, further, claim 11 recites

that the tool retaining member is shifted with respect to the first clamping surface of the clamping body.

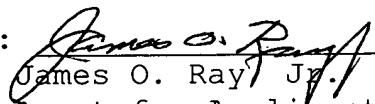
In Nagy, the movable blades 14 form both the first and second clamping surfaces and the tool retaining member. Consequently, the tool retaining member is not distinct from the jaws (equivalent to the clamping body) and the retaining member is not shifted with respect to the first clamping surface of the clamping body.

Claims 2-6 have been amended to find their dependency back to claim 11.

Accordingly, in view of the above amendments to the claims and the remarks associated therewith the Examiner is respectfully requested to withdraw his rejection of claims 2-6 and new claim 11.

In the event the Examiner has further difficulties with the allowance of the application, he is invited to contact the undersigned attorney by telephone at (412) 380-0725 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

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